Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
YOR920010231US1 (8728-505)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on August 17, 2006

Signature _____

Typed or printed name Frank V. DeRosa

Application Number	Filed
09/886,306	June 21, 2001

First Named Inventor
P. Gopalakrishnana

Art Unit	Examiner
2821	Kristie D. Shingles

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 43,584.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

_____
Signature

Frank V. DeRosa
Typed or printed name

516-692-8888
Telephone number

August 17, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: P. Gopalakrishnan, et al.

Examiner: Shingles, Kristie D.

Serial No.: 09/886,306

Group Art Unit: 2821

Filed: June 21, 2001

Docket: YOR9 2001 0231US1 (8728-505)

For: **INTELLIGENT CACHING AND NETWORK MANAGEMENT BASED ON LOCATION AND RESOURCE ANTICIPATION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313
Mail Stop-Appeal

Statement in Support of Pre-Appeal Brief Request for Review

This paper is being filed in support of Applicants' Pre-Appeal Brief Request for Review. A Notice of Appeal has been filed herewith in response to the Final Office Action mailed on March 21, 2006 and an Advisory Action mailed on July 17, 2006. Applicants respectfully contend that the claim rejections set forth in the Final Office Action are erroneous as a matter of fact and law.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313 on the date indicated below.

Dated: 8/17/06

Frank V. DeRosa

Claims 1-7 and 9-34 are pending in the application and stand rejected. Claims 1-4, 6, 7, 9-12, 14-20, 22-29 and 31-34 were rejected as being unpatentable over Rankin (US 6,879,838) in view of Wieczorek (US 6,125,278) .

Claims 5, 13, 21 and 30 were rejected as being unpatentable over Rankin and Wieczorek in view of Takagi.

Applicants respectfully assert that at the very least, Rankin and Wieczorek are legally deficient to establish a prima facie case of obviousness against claims 1, 9, 17 and 26. One point of contention on this appeal is the Examiner's erroneous characterization of Wieczorek as teaching "*maintenance of a user's location history, movement, knowledge of travel routes, and transmission in order to predict future location of the user and in order to allocate the necessary communication resources that would be needed by the user at the predicted location (FIG. 5, Col. 4, lines 6-18 and 51-58)*" (See Examiner's comments in Advisory Action).

This contention is simply incorrect as Wieczorek clearly and unambiguously teaches tracking the history movement and location of a ***subscriber unit within the coverage area of the subscriber unit (e.g., cell phone)***, so as to provide resources needed for to properly use the subscriber unit. This is in stark contrast to predicting *a location of the user based on event and time information of a user's schedule and resource information to determine resources needed by the user at the predicted location.*

As explained by Applicants in the Response to file, the claims rejections are seemingly based on an improper parsing of the claim language to fit the claims to the teachings of the reference but without due consideration given in the context of the claimed inventions.

For instance, claim 9 recites, in part,

a data source of event and time information representing a user's schedule . . .

a location database including resource information about [resources] *available for the user at one or more locations; and*

a predictor which receives the event and time information and the resource information to predict a location of the user and additional resources needed by the user at the predicted location . . .

The Examiner acknowledges on page 3 of the Final Action that Rankin does not teach the above claim limitations, but relies on Wieczorek to cure the deficiencies of Rankin in this regard. Applicants respectfully disagree. Wieczorek does not disclose or suggest *a predictor which receives the event and time information representing a user's schedule . . . to predict a location of the user. . .* as recited in claim 9.

Wieczorek teaches a method of tracking a subscriber unit (a mobile wireless unit) and obtain location information supplied by the subscriber unit to predict a future location of the subscriber unit so that the system can allocate communication resources in anticipation of expected resource requirements for the subscriber unit at the predicted future location (e.g., resources needed for executing "hand-offs" as the user passes through different sites within the subscriber unit coverage area) (see, e.g., Col. 2, lines 10-24;, Col. 4, lines 50-65).

In this regard, Wieczorek clearly does not teach or suggest *a predictor which receives the event and time information representing a user's schedule . . . to predict a location of the user.* To begin, prediction is based solely on the location of the subscriber unit during *actual use* of the subscriber unit, for the purpose of providing resources needed by the subscriber unit while it is in operation. There is nothing in Wieczorek that suggests predicting the location of the user, *per se*, based on event and time information representing the user's schedule. The focus in Wieczorek is on the actual subscriber unit as it is being used, regardless of who is using the subscriber unit.

For instance, a family of four people can use a single mobile phone, for instance, at different times, but the Wieczorek system will only predict the location of the subscriber unit as it is being used, regardless, and without consideration of the user's schedule who is using the subscriber unit. Moreover, the Wieczorek system only predicts locations of the subscriber unit as it is being used within the coverage area of the communications system (Col. 4, lines 55-58). The Wieczorek system does not, and cannot, predict future locations while the subscriber unit is not being operated. For instance, Wieczorek does not teach or suggest a system that utilizes a user's schedule to predicts that the user may be using the subscriber unit at some location in the future and ensure that resources are available at that predicted location for using the subscriber unit.

Further, with respect to claims 17 and 26, Wieczorek does not disclose or suggest *representing a user's schedule with event and time information . . .* and *predicting a location of the user and additional resources needed by the user at the predicted location based on the event and time*, for similar reasons discussed above.

Moreover, with respect to claim 1, the combination of Rankin and Wieczorek does not disclose *a universal messaging system coupled to the predictor, wherein the universal messaging system provides message services to the user based on predictions by the predictor of current or future locations, activities or needs of a user*, as recited in claim 1. In fact, the Final Action fails to address, and simply ignores this limitation. In this regard, the Final Action fails to present a prima facie case of obviousness against claim 1.

For at least the above reasons, claims 1, 9, 17 and 26 are patentable and nonobvious over the combination of Rankin and Wieczorek. In addition, all claims that depend from claim 1, 9, 17 and 26 are patentable and nonobvious over the combination of Rankin and Wieczorek or the

combination of Rankin and Wieczorek and Tagaki at least by virtue of their dependence from claim 1, 9, 17 and 26. Accordingly, withdrawal of the rejections is respectfully requested.

Respectfully submitted,

Frank V. DeRosa
Reg. No. 43,584

F. Chau & Associates, LLC
130 Woodbury Road
Woodbury, New York 11797
TEL.: (516) 692-8888
FAX: (516) 692-8889